



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 31, 1993

Mr. H. Bate Bond
Comal County Auditor
150 North Seguin, Suite 201
New Braunfels, Texas 78130-5165

Letter Opinion No. 93-25

Re: What districts the county auditor is
required to audit under Local Government
Code section 115.0035 (ID# 17927)

Dear Mr. Bond:

You requested our opinion concerning the proper construction of the word *district* contained in section 115.0035 of the Local Government Code. That section provides:

(a) For purposes of this section, "accounts" means all public funds that are subject to the control of any precinct, county or *district* official, including the accounts of law enforcement agencies and the attorney for the state composed of money and proceeds of property seized and forfeited to those officials.

(b) At least once each county fiscal year, or more often if the county auditor desires, the auditor shall, without advance notice, fully examine the accounts of all precinct, county and *district* officials.

(c) The auditor shall verify the correctness of the accounts and report the findings of the examination to the commissioners court of the county at its next term beginning after the date the audit is completed.

(d) This section does not apply to funds received by the attorney for the state from the comptroller of public accounts pursuant to the General Appropriations Act, or to federal or state grant-in-aid funds received by precinct, county, or *district* officials.

Local Gov't Code § 115.0035 (emphasis added). Your request and supporting documentation explain that one of the county commissioners of Comal County has asked you to audit the rural fire prevention districts and emergency medical services districts that have been created in Comal County. You note that Comal County also has a water supply district, water recreation districts, school districts, a central appraisal district, and judicial districts. You believe that the word *district* as used in section 115.0035 refers only to judicial districts and not the other kinds of districts that exist in Comal County. We concur.

The phrase *district offices* or *district officers* has been used for at least a century in connection with county and precinct officers or officials. For example, article XVI, section 61, of the Texas Constitution, which was added by amendment in 1935, refers to the compensation of "district, county and precinct officers;" section 64 provides for four-year office terms for "the elective district, county and precinct offices which have heretofore had terms of two years;" and section 65 provides for staggered terms for officers whose terms were increased from two to four years in section 64, including "District clerks; . . . Criminal District Attorneys; . . . [and] District Attorneys." Likewise, former article 3883, V.T.C.S. (repealed by Acts 1987, 70th Leg., ch. 149, § 49(1)), regulated "the annual fees that may be retained by precinct, county and district officers," including the "District or Criminal District Attorney, . . . [and] District Clerk."

Chapter 154 of the Local Government Code contains provisions applicable to the compensation of "district, county, or precinct officer[s]." Local Gov't Code §§ 154.002, 154.003. Chapter 159 of the Local Government Code, regulating financial disclosures by county or district officers or candidates for county or district office, defines "[c]ounty or district officer" as "a county judge, county commissioner, county attorney, district attorney, or criminal district attorney." *Id.* § 159.002(2).

In the Election Code, "[d]istrict office" means an office of the federal or state government that is not voted on statewide," Elec. Code § 1.005(4). The Election Code provides that district offices are to be listed in general election ballots after federal offices and statewide offices, but before county and precinct offices, in the following order:

- (1) member, State Board of Education;
- (2) state senator;
- (3) state representative;
- (4) chief justice, court of appeals;
- (5) justice, court of appeals;
- (6) district judge;
- (7) criminal district judge;
- (8) family district judge;
- (9) district attorney;
- (10) criminal district attorney.

Id. § 52.092 (a), (d).

We conclude from a review of the historical usage of the word *district* in the context of district, county, and precinct offices that the word does not refer to special districts. "Special districts is a term generally used to include every form of local

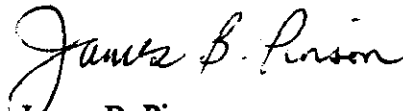
government except for municipalities, counties, and sometimes school districts--although school districts are themselves a form of special district." 36 D. BROOKS, COUNTY AND SPECIAL DISTRICT LAW § 46.1 (Texas Practice 1989). The foregoing statutory examples of usage are consistent in their lack of reference to special districts. We believe that *district officials* as used in section 115.0035 of the Local Government Code means officers of the judicial district or districts in which the county in question is located, as provided in chapter 24 of the Government Code. For example, Comal County is in the 22nd and 207th Judicial Districts. Gov't Code §§ 24.123, 24.386.

Whether you are authorized or obligated to audit any particular type of special district by virtue of some law other than section 115.0035 of the Local Government Code is beyond the scope of this opinion.

S U M M A R Y

The "district" to which section 115.0035 of the Local Government Code applies is the judicial district or districts in which the county in question is located.

Very truly yours,



James B. Pinson
Assistant Attorney General
Opinion Committee